

DISTRICT OF COLUMBIA  
+ + + + +  
ALCOHOLIC BEVERAGE CONTROL BOARD  
+ + + + +  
MEETING

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IN THE MATTER OF: \*  
\*  
Po'Boy, LLC \*  
t/a Johnny's Half Shell \* Show Cause  
400 North Capitol Street, NW \* Hearing  
Retailer CR - ANC-6C \*  
License No. 74573 \*  
Case #14-CMP-00776 \*  
\*  
(No ABC Manager on Duty) \*  
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August 5, 2015

The Alcoholic Beverage Control Board  
met in the Alcoholic Beverage Control Hearing  
Room, Reeves Building, 2000 14th Street, N.W.,  
Suite 400S, Washington, D.C. 20009, Chairperson  
Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson  
NICK ALBERTI, Member  
DONALD BROOKS, Member  
MIKE SILVERSTEIN, Member  
HECTOR RODRIGUEZ, Member  
JAMES SHORT, Member

ALSO PRESENT:

FERNANDO RIVERO, OAG  
SHAWN TOWNSEND, ABRA Investigator

# T-A-B-L-E O-F C-O-N-T-E-N-T-S

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## WITNESS

## DIRECT

Shawn Townsend	6
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## EXHIBIT

## MARKED

## RECEIVED

1	ROI	8	10
1A	Photograph Color Copy	8	10
1B	Notice of Violation	10	10

1 P-R-O-C-E-E-D-I-N-G-S

2 11:25 a.m.

3 CHAIRPERSON MILLER: Okay. We have a  
4 quorum. Good morning. We are now back on the  
5 record for Case No. 14-CMP-00776, Johnny's Half  
6 Shell located at 400 North Capitol Street, N.W.,  
7 License No. 74573, in ANC-6C. This is a Show  
8 Cause Hearing.

9 Would the parties introduce themselves  
10 for the record, please?

11 MR. RIVERO: Good morning, Board  
12 Members. Fernando Rivero for the District of  
13 Columbia.

14 CHAIRPERSON MILLER: Okay. Is anybody  
15 here from Johnny's Half Shell? Not seeing anyone  
16 from Johnny' Half Shell, it's 11:25, this hearing  
17 was called for 11:00. The Board hasn't received  
18 any phone call from the licensee.

19 Do you have any word whether the  
20 licensee is on his way or anything like that?

21 MR. RIVERO: The Government's last  
22 conversation with the licensee was to ensure that

1 the licensee agreed to pay a fine and the  
2 licensee agreed to do that. And then the  
3 licensee promptly changed his mind sitting at the  
4 table across from me --

5 CHAIRPERSON MILLER: Oh.

6 MR. RIVERO: -- the last time we were  
7 here at the Status Hearing and that was the last  
8 time I spoke with the licensee.

9 CHAIRPERSON MILLER: I mean --

10 MR. RIVERO: Sitting here across from  
11 me is when he asked for this hearing, so that's  
12 why we are here, because he asked for the  
13 hearing.

14 CHAIRPERSON MILLER: Oh, asked for the  
15 hearing instead of the fine, right.

16 MR. RIVERO: Correct.

17 CHAIRPERSON MILLER: Okay.

18 MR. RIVERO: The Board asked him --

19 CHAIRPERSON MILLER: And he is not  
20 here.

21 MR. RIVERO: -- if he agreed on the  
22 fine and then he changed his mind on the spot.

1 CHAIRPERSON MILLER: Right. I recall  
2 that actually. Okay. So we are here for a  
3 hearing then. Are you prepared to go forward ex  
4 parte?

5 MR. RIVERO: Of course.

6 CHAIRPERSON MILLER: Okay. Then  
7 whenever you are ready.

8 MR. RIVERO: Thank you.

9 CHAIRPERSON MILLER: Okay.

10 MR. RIVERO: Good morning, Board  
11 Members. We are here in the matter of Johnny's  
12 Half Shell, Case No. 14-CMP-00776, License No.  
13 74573, located at 400 North Capitol Street, N.W.,  
14 in Washington, D.C.

15 The Government intends to prove today  
16 through the testimony of the Investigator and  
17 ABRA that on Monday, December the 15th, at  
18 approximately 2:10 p.m. an Alcoholic Beverage  
19 Regulatory Administration Investigator visited  
20 the establishment.

21 During the visit, the ABRA  
22 Investigator was notified by the manager on duty,

1 Michael Clark, that his ABC License was expired  
2 and that the owner, John Fulchino, was not  
3 present.

4 The ABRA Investigator observed two  
5 patrons consuming alcoholic beverages and that is  
6 the extent of the Government's case.

7 The Government will call Investigator  
8 Shawn Townsend to the stand to testify.

9 CHAIRPERSON MILLER: Good morning.

10 INVESTIGATOR TOWNSEND: Good morning.

11 Whereupon,

12 INVESTIGATOR SHAWN TOWNSEND

13 was called as a witness by Counsel for the  
14 Government, and having been first duly sworn,  
15 assumed the witness stand and was examined and  
16 testified as follows:

17 INVESTIGATOR TOWNSEND: Yes, I do.

18 CHAIRPERSON MILLER: Okay. Thank you.

19 DIRECT EXAMINATION

20 MR. RIVERO: State your name for the  
21 record and spell your last name.

22 INVESTIGATOR TOWNSEND: Shawn

1 Townsend, T-O-W-N-S-E-N-D.

2 MR. RIVERO: Mr. Townsend, what is  
3 your occupation?

4 INVESTIGATOR TOWNSEND: I am an ABRA  
5 Investigator.

6 MR. RIVERO: And what are the duties  
7 of an ABRA Investigator?

8 INVESTIGATOR TOWNSEND: I conduct  
9 investigations into licensed establishments in  
10 the District of Columbia.

11 MR. RIVERO: How long have you been an  
12 Investigator for ABRA?

13 INVESTIGATOR TOWNSEND: A little over  
14 a year and a half.

15 MR. RIVERO: Thank you. Mr. Townsend,  
16 I'm going to show you an exhibit that is marked  
17 for identification as Government Exhibit 1. I  
18 would like you to review it and identify the  
19 document.

20 INVESTIGATOR TOWNSEND: This is my  
21 investigative report.

22 MR. RIVERO: Okay. This is an

1 accurate copy of the report?

2 INVESTIGATOR TOWNSEND: Yes.

3 MR. RIVERO: For this case?

4 INVESTIGATOR TOWNSEND: Correct.

5 (Whereupon, the above-referred to  
6 document was marked as Government Exhibit No. 1  
7 for identification.)

8 MR. RIVERO: And so you found that the  
9 report is complete with exhibits?

10 INVESTIGATOR TOWNSEND: Yes.

11 MR. RIVERO: I'm going to show you  
12 what is marked as Exhibit 2. And it appears to  
13 be a photocopy of a photograph that is in your  
14 report, correct?

15 INVESTIGATOR TOWNSEND: Yes.

16 MR. RIVERO: Who took this photograph?

17 INVESTIGATOR TOWNSEND: I did.

18 MR. RIVERO: Okay.

19 (Whereupon, the above-referred to  
20 document was marked as Government Exhibit No. 1A  
21 for identification.)

22 MR. RIVERO: And you would agree that



1 the contents of this report is your testimony in  
2 this case of what you observed?

3 INVESTIGATOR TOWNSEND: Yes.

4 MR. RIVERO: Thank you. The  
5 Government would move Exhibit 1 into the record,  
6 at this time as the Investigator's testimony.

7 Exhibit 1 is the Investigator's  
8 report.

9 CHAIRPERSON MILLER: Yes.

10 MR. RIVERO: With the exhibits. And  
11 attached to it is a color version of one of the  
12 exhibits because the photograph in the exhibit  
13 here is black and white and we just have a color  
14 one that is attached as well. And that is the  
15 testimony of the Investigator, Exhibit 1.

16 We have no further questions.

17 CHAIRPERSON MILLER: So Exhibit 1  
18 consists of a two-page report with two exhibits.  
19 Is that correct?

20 MR. RIVERO: Correct.

21 CHAIRPERSON MILLER: Okay.

22 MR. RIVERO: And we have added --

1 CHAIRPERSON MILLER: And then Exhibit  
2 3 --

3 MR. RIVERO: -- a color copy of the  
4 black and white photo as well.

5 CHAIRPERSON MILLER: Okay. And  
6 Exhibit 3, I see also, is the Notice of  
7 Violation.

8 MR. RIVERO: Correct.

9 (Whereupon, the above-referred to  
10 document was marked as Government Exhibit No. 1B  
11 for identification.)

12 CHAIRPERSON MILLER: So you are moving  
13 the whole thing into the record?

14 MR. RIVERO: We're moving the entire  
15 thing as Exhibit 1 as the testimony of the  
16 Investigator. The Government rests.

17 CHAIRPERSON MILLER: Okay. So that is  
18 admitted.

19 (Whereupon, the above-referred to  
20 document was received into evidence as Government  
21 Exhibit 1, 1A, 1B.)

22 CHAIRPERSON MILLER: It's part of the

1 record anyway. Okay. Good. All right.  
2 Questions for the Investigator? Okay. Not  
3 hearing any, that was a full report and the Board  
4 has no questions.

5 INVESTIGATOR TOWNSEND: Thank you.

6 CHAIRPERSON MILLER: Thank you.  
7 Anything else?

8 MR. RIVERO: Closing argument.

9 CHAIRPERSON MILLER: Okay.

10 MR. RIVERO: The Government has,  
11 obviously, met its burden by a preponderance of  
12 the evidence based on the testimony contained in  
13 the Investigator's report.

14 The Government recommends a fine of  
15 \$500 to be paid within 30 days. And if the fine  
16 is not paid, that the license be suspended until  
17 payment is received. Thank you.

18 CHAIRPERSON MILLER: Okay. Thank you  
19 very much. That concludes this hearing. And the  
20 Board will just take a vote on deliberation of  
21 the case in closed session.

22 As Chairperson of the Alcoholic

1 Beverage Control Board for the District of  
2 Columbia and in accordance with DC Official Code  
3 Section 2-574(b) of the Open Meetings Act, I move  
4 that the ABC Board hold a closed meeting for the  
5 purpose of seeking legal advice from our counsel  
6 on Case No. 14-CMP-00776, Johnny's Half Shell,  
7 pursuant to DC Official Code Section 2-574(b) (4)  
8 of the Open Meetings Act and deliberating upon  
9 this case for the reasons cited in DC Official  
10 Code Section 2-574(b) (13) of the Open Meetings  
11 Act.

12 And this meeting will be held today.

13 Is there a second?

14 MEMBER SHORT: Second.

15 CHAIRPERSON MILLER: Mr. Short has  
16 seconded the motion. I'll now take a roll call  
17 vote on the motion before us now that it has been  
18 seconded.

19 Mr. Brooks?

20 MEMBER BROOKS: I agree.

21 CHAIRPERSON MILLER: Mr. Alberti?

22 MEMBER ALBERTI: I agree.

1 CHAIRPERSON MILLER: Mr. Rodriguez?

2 MEMBER RODRIGUEZ: I agree.

3 CHAIRPERSON MILLER: Ms. Miller

4 agrees. Mr. Silverstein?

5 MEMBER SILVERSTEIN: I agree.

6 CHAIRPERSON MILLER: And Mr. Short?

7 MEMBER SHORT: I agree.

8 CHAIRPERSON MILLER: It appears that

9 the motion has passed by a 6-0-0 vote. I hereby

10 give notice that the ABC Board will hold this

11 aforementioned meeting today in accordance with

12 the Open Meetings Act and we will issue a

13 decision within 90 days.

14 Okay. So that concludes the morning's

15 hearings. So the Board will now recess and we

16 will reconvene this afternoon for the afternoon

17 hearings, which start at 1:30 p.m.

18 MEMBER RODRIGUEZ: Thank you.

19 CHAIRPERSON MILLER: Okay. All right.

20 (Whereupon, the Show Cause Hearing in

21 the above-entitled matter was concluded at 11:33

22 a.m.)

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